

(2) Order to pay penalty

Notwithstanding any other provision of law, in any such review, the court shall have the power to order payment of the penalty imposed by the Secretary.

(d) Action to collect penalty

If any person fails to comply with the determination or order of the Secretary imposing a civil money penalty under subsection (a) of this section, after the determination or order is no longer subject to review as provided by subsections (b) and (c) of this section, the Secretary may request the Attorney General of the United States to bring an action in any appropriate United States district court to obtain a monetary judgment against the person and such other relief as may be available. The monetary judgment may, in the discretion of the court, include any attorneys fees and other expenses incurred by the United States in connection with the action. In an action under this subsection, the validity and appropriateness of the Secretary's determination or order imposing the penalty shall not be subject to review.

(e) Settlement by Secretary

The Secretary may compromise, modify, or remit any civil money penalty which may be, or has been, imposed under this section.

(f) "Knowingly" defined

The term "knowingly" means having actual knowledge of or acting with deliberate ignorance of or reckless disregard for the prohibitions under this section.

(g) Regulations

The Secretary shall issue such regulations as the Secretary deems appropriate to implement this section.

(h) Use of penalties for administration

Civil money penalties collected under this section shall be paid to the Secretary and, upon approval in an appropriation Act, may be used by the Secretary to cover all or part of the cost of rendering services under this chapter.

(Pub. L. 90-448, title XIV, § 1418a, as added Pub. L. 101-235, title I, § 111(a), Dec. 15, 1989, 103 Stat. 2014.)

EFFECTIVE DATE

Section 111(b) of Pub. L. 101-235 provided that: "The amendment made by subsection (a) [enacting this section] shall apply only with respect to—

"(1) violations referred to in the amendment that occur on or after the effective date of this section [Dec. 15, 1989]; and

"(2) in the case of a continuing violation (as determined by the Secretary of Housing and Urban Development), any portion of violation referred to in the amendment that occurs on or after such date."

CHAPTER 46—MOTOR VEHICLE INFORMATION AND COST SAVINGS

SUBCHAPTER IV—ODOMETER REQUIREMENTS

§ 1988. Disclosure requirements upon transfer of ownership of motor vehicle

[See main edition for text of (a) to (c)]

(d) Statement by transferor of mileage disclosure prior to licensing by transferee

(1) [See main edition for text of (A) and (B)]

(C) In the case of a transferor to whom title to a motor vehicle has been issued by any State and such title is, at the time of a transfer of such motor vehicle, physically held by a lienholder, nothing in this subsection shall be construed to prohibit for purposes of the mileage disclosure requirements of this section the use of a written power of attorney (if otherwise permitted by State law) in a form, and under reasonable conditions, prescribed by rule by the Secretary before February 1, 1989. The rule shall (i) ensure disclosure on the power of attorney document of the actual mileage at the time of the transfer, and (ii) ensure that such mileage will be restated exactly by the person exercising the power of attorney in the space referred to in paragraph (2)(A)(iii). The rule, consistent with the purposes of this chapter and the need to facilitate enforcement thereof, shall prescribe that the form be issued by the State to the transferee in accordance with paragraph (2)(A)(i), shall prescribe that the person granted such power of attorney shall retain a copy of such power of attorney and shall submit the original back to the State with a copy of the title showing the restatement of the mileage, and may prescribe that the State retain the power of attorney and the copy of the title for an appropriate period or that the State adopt alternative measures consistent with the purposes of this subchapter, taking into consideration costs to the State. The rule shall not require that a vehicle be titled in the State in which the power of attorney was issued. The provisions of sections 1990b and 1990c of this title shall apply to any person granting or granted such power of attorney.

[See main edition for text of (2); (e) to (g)]

(As amended Pub. L. 101-641, § 7(a), Nov. 28, 1990, 104 Stat. 4657.)

AMENDMENTS

1990—Subsec. (d)(1)(C). Pub. L. 101-641, § 7(a), which directed the amendment of subsec. (d)(2)(C) of this section, was executed by amending subsec. (d)(1)(C) of this section to reflect the probable intent of Congress because subsec. (d)(2) of this section does not contain a subpar. (C). The amendment added a new third and fourth sentences to subpar. (C) and struck out former third sentence which read as follows: "The rule, consistent with the purposes of this chapter and the need to facilitate enforcement thereof, shall prescribe that the form be issued by the State to the transferee in accordance with paragraph (2)(A)(i) and shall provide for retention of a copy of such power of attorney and for the original to be submitted back to the State by the person granted such power of attorney."

EFFECTIVE DATE OF 1990 AMENDMENT

Section 7(b) of Pub. L. 101-641 provided that: "The amendment made by subsection (a) [amending this section] shall be effective on the date of enactment of this Act [Nov. 28, 1990] and the Secretary of Transportation shall implement the amended section by promulgating a revision of existing regulations within six months after such effective date. Such rule shall consider the need to facilitate normal commercial

transactions in the sale or exchange of motor vehicles."

§ 1990e. Administrative warrants

[See main edition for text of (a)]

(b) Issuance and execution; inventory of impounded property; filing of papers

Issuance and execution of administrative inspection warrants shall be as follows:

(1) Any judge of the United States or of a State court of record, or any United States magistrate judge, may, within his territorial jurisdiction, and upon proper oath or affirmation showing probable cause, issue warrants for the purpose of conducting administrative inspections authorized by section 1990d of this title and of impoundment of motor vehicles or motor vehicle equipment appropriate to such inspections. For the purposes of this section, the term "probable cause" means a valid public interest in the effective enforcement of this subchapter or regulations issued thereunder sufficient to justify administrative inspections of the area, factory, warehouse, establishment, premises, or motor vehicle, or contents thereof, in the circumstances specified in the application for the warrant.

(2) A warrant shall be issued only upon an affidavit of an officer or employee having knowledge of the facts alleged, sworn to before the judge or magistrate judge and establishing the grounds for issuing the warrant. If the judge or magistrate judge is satisfied that grounds for the application exist or that there is a reasonable basis for believing they exist, he shall issue a warrant identifying the area, factory, warehouse, establishment, premises, or motor vehicle to be inspected, the purpose of such inspection, and, where appropriate, the type of property to be inspected, if any. The warrant shall—

[See main edition for text of (A) to (E)]

(F) designate the judge or magistrate judge to whom it shall be returned.

(3) A warrant issued pursuant to this section must be executed and returned within 10 days of its date unless, upon a showing by the Secretary of a need therefor, the judge or magistrate judge allows additional time in the warrant. If property is impounded pursuant to a warrant, the person executing the warrant shall give the person from whom or from whose premises the property was taken a copy of the warrant and a receipt for the property taken or shall leave the copy and receipt at the place from which the property was taken. The return of the warrant shall be made promptly and shall be accompanied by a written inventory of any property taken. The inventory shall be made in the presence of the person executing the warrant and of the person from whose possession or premises the property was taken, if they are present, or in the presence of at least one credible person other than the person making such inventory, and shall be verified by the person executing the warrant. The judge or magis-

trate judge, upon request, shall deliver a copy of the inventory to the person from whom or from whose premises the property was taken and to the applicant for the warrant.

(4) The judge or magistrate judge who has issued a warrant under this section shall attach to the warrant a copy of the return and all papers filed in connection therewith and shall file them with the clerk of the district court of the United States for the judicial district in which the inspection was made.

(As amended Pub. L. 101-650, title III, § 321, Dec. 1, 1990, 104 Stat. 5117.)

CHANGE OF NAME

"United States magistrate judge" and "magistrate judge" substituted for "United States magistrate" and "magistrate", respectively, wherever appearing in subsec. (b) pursuant to section 321 of Pub. L. 101-650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure.

SUBCHAPTER V—IMPROVING AUTOMOTIVE EFFICIENCY

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1901, 2023 of this title.

§ 2002. Average fuel economy standards

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2001, 2003, 2004, 2005, 2007, 2008, 2010, 2013 of this title.

CHAPTER 47—CONSUMER PRODUCT SAFETY

Sec.

2057b. Banning of isopropyl nitrite and other nitrates.

- (a) In general.
- (b) Lawful purposes.
- (c) "Commercial purpose" defined.
- (d) Effective date.

2076a. Report on civil penalties.

2084. Information reporting.

- (a) Notification of settlements or judgments.
- (b) Calculation of 24-month periods.
- (c) Information required to be reported.
- (d) Report not deemed an admission of liability.
- (e) Definitions.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 2055, 2219 of this title; title 42 section 300j-22.

§ 2051. Congressional findings and declaration of purpose

SHORT TITLE OF 1990 AMENDMENT

Pub. L. 101-608, § 1, Nov. 16, 1990, 104 Stat. 3110, provided that: "This Act [enacting sections 2076a and 2084 of this title, amending sections 1193, 1194, 1262, 1274, 2053, 2055, 2056, 2058, 2061, 2064, 2066, 2069, 2077, and 2081 of this title, and enacting provisions set out as notes under sections 2053, 2054, 2056, 2076, and 2084 of this title] may be cited as the 'Consumer Product Safety Improvement Act of 1990'."